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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,512	10/09/2001	Toru Mineyama	09812.0172-00000	6341
22852	7590	01/09/2008	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			VAN BRAMER, JOHN W	
ART UNIT		PAPER NUMBER		
3622				
MAIL DATE		DELIVERY MODE		
01/09/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/973,512	MINEYAMA ET AL.
	Examiner	Art Unit
	John Van Bramer	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 October 2007.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 9 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed on October 23, 2007, cancelled no claims. No claims were amended and no claims were added. Thus the currently pending claims remain Claims 1 and 9.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Remillard (U.S. Patent Number: 5,404,393) in view of Bull et al. (U.S. Patent Number: 5,995,943)

Claims 1: Remillard discloses a server operational expenses collecting method for a server which transmits via the Internet an electronic program guide to a terminal apparatus operated by a user, said server:

- a. Generating customer analysis information on the basis of personal information of said user inputted from said terminal apparatus and program viewing log

information about a program viewed by said user on said terminal apparatus.

(Col 2, lines 6-24; Col 2, lines 44-62; Col 4, line 57 through Col 5, line 6; Col 5, line 55 through Col 6, line 21)

- b. Generating a second electronic program guide by reorganizing a first electronic program guide in accordance with the preference of said user on the basis of the generated customer analysis information. (Col 2, line 46 through Col 3, line 20; Col 5, line 55 through Col 6, line 21; and Col 7, lines 35-63)
- c. Providing said generated customer analysis information to an advertiser who practices an advertising campaign to said terminal apparatus. (Col 6, lines 9-21)

While Remillard does not specifically state that it collects expenses in a predetermined amount for the provision of customer analysis information from the advertiser, the analogous art of Bull et al. (U.S. Patent Number: 5,995,943) teaches that it is well known to charge advertisers for providing them with such information (Col 5, line 59 through Col 6, line 19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the customer analysis information to the advertiser for a fee. One would have been motivated to, do so in order to generate a revenue stream that helps to offset the cost of monitoring and gathering such information.

Claim 9: Remillard discloses a server operational expenses collecting apparatus for a server which transmits via the Internet an electronic program guide to a terminal apparatus operated by a user, said server:

- a. Generating customer analysis information on the basis of personal information of said user inputted from said terminal apparatus and program viewing log information about a program viewed by said user on said terminal apparatus. (Col 2, lines 6-24; Col 2, lines 44-62; Col 4, line 57 through Col 5, line 6; Col 5, line 55 through Col 6, line 21)
- b. Generating a second electronic program guide by reorganizing a first electronic program guide in accordance with the preference of said user on the basis of the generated customer analysis information. (Col 2, line 46 through Col 3, line 20; Col 5, line 55 through Col 6, line 21; and Col 7, lines 35-63)
- c. Providing said generated customer analysis information to an advertiser who practices an advertising campaign to said terminal apparatus. (Col 6, lines 9-21)

While Remillard does not specifically state that it collects expenses in a predetermined amount for the provision of customer analysis information from the advertiser, the analogous art of Bull et al. (U.S. Patent Number: 5,995,943) teaches that it is well known to charge advertisers for providing them with such information (Col 5, line 59 through Col 6, line 19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the customer analysis information to the advertiser for a fee. One would have been motivated to do so in order to generate a revenue stream that helps to offset the cost of monitoring and gathering such information.

***Response to Arguments***

4. Applicant's arguments filed October 23, 2007 have been fully considered but they are not persuasive.
  - a. The applicant argues that Remillard does not disclose generating a programming guide. However, in Col 2, lines 7-24, Remillard discloses that the invention provides facility access to a user, provides the user with the ability to interact with the facility, and automatically monitors viewing habits. In Col 4, line 56 through Col 5, line21, Remillar discloses connecting to a remote facility and displaying menus for allowing a user to interact with the remote facility on a television screen. These remote facilities are interactive and include specially designed programming and conventional programming. The specially designed programming options include pay-per-view services (see Application number: 07/770,520 (now U.S. Patent Number: 5,396,546), Col 3, lines 18-33 which is incorporated by reference in Remillard, U.S. Patent Number: 5,404,393). A menu listing options from which a user can select pay-per-view programming to view is a programming guide. Thus, when Remillard discloses in Col 2, lines 44-62 that an initiation of a data call to a predetermined independent computer system to acquire configuration information and operating instruction, whereby the configuration information controls which menu choices to display for selection by a user, a programming guide is disclosed.

b. The applicant argues that Remillard does not discloses generating a second electronic programming guide by reorganizing a first electronic programming guide in accordance with the preferences of said user on the basis of the generated customer analysis information. However, Remillard discloses monitoring the users activities and uploading them on a periodic basis to the remote facility (Col 2, lines 44-62). When the profile data is updated the configuration information that includes services desired by the particular user changes and thus the menu choices a user may select change (Col 2, lines 44-62). Thus when the menu choices (programming guide) change a second programming guide generated and new menu items are displayed to the user. This is further apparent in Col 5, line 51 through Col 4, line 2 of U.S. Patent Number: 5,396,546 which is incorporated by reference into the prior art. Remillard discloses in this section that limitations can be imposed on the facilities in which allow users to preconfigured desired options.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*SWB*  
jvb

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